

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Developing a Unified Inter-carrier	)	Docket No. CC 01-92
Compensation Regime	)	
	)	
Missoula Inter-carrier	)	DA 06-1510
Compensation Reform Plan	)	
	)	

**THE COMMENT OF  
THE MID-ATLANTIC CONFERENCE OF REGULATORY  
UTILITY COMMISSIONERS AND  
STATE COMMISSIONERS OF THE MACRUC STATES**

These initial joint comments are filed on behalf of eight members of the Mid-Atlantic Conference of Regulatory Utility Commissioners (“MACRUC”).<sup>1</sup> The joint comments of the MACRUC Members (“MACRUC Comment”) respond to the Federal Communications Commission’s (“FCC”) Public Notice at DA 06-1510 issued July 25, 2006 and extension order issued August 29, 2006 (the “Missoula Plan Notice”).

The Missoula Plan Notice solicits comments on an inter-carrier compensation plan that the National Association of Regulatory Utility Commissioners’ Task Force on Inter-carrier Compensation (“NARUC Task

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<sup>1</sup> Current MACRUC Members are the Delaware Public Service Commission, the Public Service Commission of the District of Columbia, the Kentucky Public Service Commission, the Maryland Public Service Commission, the New Jersey Board Of Public Utilities, the New York Public Service Commission, the Pennsylvania Public Utility Commission, the Virgin Islands Public Service Commission, the Virginia State Corporations Commission, and the West Virginia Public Service Commission. The Kentucky Public Service Commission and the Virgin Islands Public Service Commission are not Signatories to these Comments.

Force”) filed on July 24, 2006 in this docket. The NARUC Task Force filed the proposal, entitled the “Missoula Plan” in reference to one meeting where the plan was formulated, but NARUC has taken no position on the Missoula Plan. The Missoula Plan is supported by, among others, AT&T, BellSouth Corp., Cingular Wireless, and 336 rural service providers entitled the Rural Alliance.

### **The MACRUC Comment**

*Preliminary Observations about the MACRUC Comment.* The State Commissions and individual Commissioners supporting the MACRUC Comment appreciate the opportunity to respond to the Missoula Plan Notice. MACRUC particularly appreciates the FCC’s decision to extend the Comment period from September 25, 2006 to October 25, 2006. That extension provided MACRUC the additional time needed to prepare and submit a consensus Comment.

As an initial matter, the MACRUC Comment should not be construed as binding on any State Commission or individual state commissioner in any proceeding before the respective State Commissions nor any individual Commissioner. Moreover, the considerations set forth in the MACRUC Comment could change in response to subsequent events. This includes a later review of other filed Comments in this docket and related dockets or proceedings. This further includes future developments of a legal, regulatory, or factual nature at the federal or state level.

*Background to the MACRUC Comment.* The FCC issued the Missoula Plan Notice following the submission of the Missoula Plan. The Missoula Plan is the latest in a series of proposals to reform interstate, and now

intrastate, intercarrier compensation rates incurred for use of, and delivery of services on, the public switched telecommunications network (“PSTN”).

Following submission of the Missoula Plan, NARUC conducted several webinars in which proponents and opponents of the Missoula Plan expressed their views and interpretations on different components of the Missoula Plan. In addition, several state commissions in the MACRUC region conducted separate proceedings or solicited comments from interested members of the public given the plan’s impact in the region.

MACRUC has serious concerns with various provisions of the Missoula Plan and the impact on the carriers and consumers in our States. The Comment identifies the following issues of concern:

- The unwarranted and illegal preemption of state authority over intrastate switched access charges and reciprocal compensation rates.
- The unwarranted and inequitable increases in residential Subscriber Line Charges (“SLCs”). A greater percentage of consumers in the MACRUC region will likely see higher SLCs (i.e., to a \$10.00 cap) than those in many other states whose consumers are served by more Track 2 and 3 carriers (whose SLC cap is only \$8.75). MACRUC states are served in a greater proportion by Track 1 carriers than many other states or regions in the nation.
- The substantial increase (estimated to be at least 32%) in funding to the federal Universal Service Fund (“USF”). A disproportionate share of the additional funding will likely fall on net payer states like many of those in the MACRUC region.
- The addition of the Restructure Mechanism (“RM”), a very costly (\$1.5 B) component of the proposed increase to the USF. Its only purpose is

to make “whole” certain local exchange carriers who primarily serve customers located outside the MACRUC region.

- The creation of the Early Adopter Fund (“EAF”), estimated to be at least \$200M. Although little detail has been provided about the cost of this fund, many predict this amount to be seriously underestimated. The EAF is primarily an attempt to solicit state support for the Plan and would shift unfairly the cost of intrastate access reform in one state to customers in other states. Many MACRUC states have accomplished significant intrastate access reform without imposing increases in basic telephone rates or establishing intrastate USFs and therefore would probably be unable to benefit from the EAF. In fact, one MACRUC member has no intrastate access charges and therefore could not be considered for EAF support but could be required to subsidize those who have not chosen to reform their access charges.
- The proposed three tiered (or Track) system does not unify intercarrier compensation rates for all carriers or alternatively establish carrier-specific rates based on costs.
- The Plan involuntarily compels state commission participation and then proceeds to treat the state commissions inequitably. The proponents claim the Missoula Plan is voluntary; however, MACRUC states have less ability to opt out of the Missoula Plan than many other states because of the disproportionately large percentage of Track 1 carriers in the MACRUC region.
- The Plan seemingly disregards the negotiation and arbitration procedures set forth in §§ 251 and 252 of the 1996 Act. Furthermore, the Missoula Plan appears to have the power to override many existing

interconnection agreements and will therefore have a negative impact on the competitive marketplace in the MACRUC Region.

Several MACRUC States are submitting individual state comments in this proceeding.<sup>2</sup> The MACRUC States are concerned that our citizens will likely be inequitably burdened with a disproportionate share of the actual costs associated with the Missoula Plan and, therefore, oppose its overall adoption. Alternatively, the Missoula Plan should only be considered if significantly modified to address the MACRUC States' concerns.

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<sup>2</sup> Delaware, District of Columbia, New Jersey, New York, Pennsylvania, and Virginia.

On behalf of the Delaware Public Service Commission

/s/ Arnetta McRae  
Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

For the Public Service Commission of the District of  
Columbia

/s/ Agnes Alexander Yates  
Chair

On Behalf of the Public Service Commission of Maryland,

/s/ Kenneth D. Schisler  
Chairman

/s/ Harold D. Williams  
Commissioner

/s/ Allen M. Freifeld  
Commissioner

/s/ Charles R. Boutin  
Commissioner



On Behalf of the New Jersey Board of Public Utilities:

/s/  
JEANNE M. FOX  
PRESIDENT

/s/  
FREDERICK F. BUTLER  
COMMISSIONER

/s/  
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CONNIE O. HUGHES  
COMMISSIONER

/s/  
JOSEPH L. FIORDALISO  
COMMISSIONER

/s/  
CHRISTINE V. BATOR  
COMMISSIONER

**Docket No. CC 01-92**  
**The Comment of the Mid-Atlantic Conference of Regulatory Utilities**  
**Commissioners and**  
**State Commissioners of the MACRUC States**

**William M. Flynn, Chairman**  
**New York Public Service Commission**

/s/\_\_\_\_\_

**Maureen F. Harris, Commissioner**  
**New York Public Service Commission**

/s/\_\_\_\_\_

**Dated: October 25, 2006**

Docket Nos.  
CC 01-92  
DA 06-1510

Wendell F. Holland, Chairman  
Commonwealth of Pennsylvania Public Utility Commission

/s/

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On behalf of the Commonwealth of Pennsylvania Public Utility Commission

Joseph K. Witmer, Esq.  
Assistant Counsel

/s/

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Dated: October 25, 2006

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

ON BEHALF OF THE VIRGINIA STATE CORPORATION COMMISSION

/s/ Mark C. Christie  
Chair

/s/ Theodore V. Morrison, Jr.  
Commissioner

/s/ Judith Williams Jagdmann  
Commissioner

On behalf of the Public Service Commission of West Virginia

Jon McKinney - Unavailable due to being outside of the  
country

Chairman

/s/ Edward Staats

Commissioner

/s/ R. Michael Shaw

Commissioner